

HON. BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM T. WHITMAN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

STATE FARM LIFE INSURANCE
COMPANY, an Illinois corporation,

Defendant.

CASE NO. 3:19-cv-06025-RBL

**DECLARATION OF JOHN J.
SCHIRGER IN SUPPORT OF
MOTION FOR CLASS
CERTIFICATION**

DECLARATION OF JOHN J. SCHIRGER

I, John J. Schirger, hereby submit the following Declaration:

1. I am an attorney licensed to practice law and in good standing in the states of Missouri and Nebraska (inactive).

2. I am one of the founding and named partners in the law firm Miller Schirger LLC, located at 4520 Main Street, Suite 1570, Kansas City, Missouri 64111 ("Miller Schirger"), a civil litigation firm with substantial nationwide experience in complex business and commercial

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1 litigation, and multi-party actions, including class actions, and currently serve as managing
2 partner of the firm.

3 3. Along with co-counsel I am counsel for Plaintiff William Whitman in the above-
4 captioned case and have personally rendered legal services on his behalf. I have also been
5 personally responsible for staffing and overseeing the tasks and activities conducted on behalf of
6 Plaintiff.

7 4. The three Miller Schirger attorneys rendering services in this case practice in the
8 area of litigation on a full-time basis and have over 50 years of combined legal experience. We
9 are experienced litigators with substantial nationwide experience in complex business and
10 commercial litigation, including multi-party and class action litigation involving a wide range of
11 contract, tort and consumer fraud violations, and are currently prosecuting numerous class action
12 lawsuits across the country.

13 **a. John J. Schirger**

14 I obtained a B.A. from the University of Notre Dame in 1988, and a J.D. from
15 Creighton University School of Law in 1992. I am currently admitted and licensed to
16 practice in the states of Missouri and Nebraska (inactive), as well as before numerous
17 federal district and appellate courts.

18 I began my legal career at McGrath, North, Mullin & Kratz, PC LLO, a large
19 regional law firm located in Omaha, Nebraska, where I was elected partner after four
20 years of practice. After 12 years of private practice, I spent approximately three years as
21 in-house counsel in the insurance industry, including approximately two years as a
22 senior legal officer for a Fortune 500 life and health insurance company. I returned to
23 private practice in 2008, when I became a founding and named partner in Miller

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1 Schirger. I have been named a “Top 100 Missouri & Kansas Super Lawyer” by
 2 Missouri and Kansas Super Lawyers, “Best of the Bar” by the Kansas City Business
 3 Journal, a member of the “Power 30 – Commercial and Consumer Litigation” by
 4 Missouri Lawyers Media and have been “AV” rated by Martindale-Hubbell for 23
 5 years.

6 Throughout my career, I have represented clients ranging from individuals to
 7 Fortune 500 companies in various complex business and commercial matters, including
 8 class actions and other multi-party actions, in state and federal courts across the United
 9 States. In addition, my 28 years of experience includes representing clients, both
 10 individuals and insurers, in a wide variety of litigation and regulatory matters within the
 11 insurance area in both the life/health and property/casualty industries. My substantial
 12 insurance experience includes:

- 13 • Drafting and revising the following types of insurance policies: term life;
 14 whole life; universal life; variable universal life; disability; long-term-
 15 care; and Medicare supplement.
- 16 • Negotiating with state insurance regulators regarding issues related to,
 17 among others, policy approval, agency issues, and financial capital and
 18 reserve requirements.
- 19 • Representing and advising plaintiffs and defendants in a wide variety of
 20 litigation matters including class actions.
- 21 • Analyzing and advising clients on: cost of insurance charges; general
 22 policy charges; underwriting; policy guarantees; and policy pricing with
 23 respect to universal life and/or variable universal life policies.

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- Analyzing and advising clients on various premium financing issues, and third-party owned life insurance arrangements.
- Representing plaintiffs in cost of insurance class actions brought in a number of state and federal courts throughout the United States.

b. Matthew W. Lytle

Matt obtained a B.A. from Creighton University in 1996, and a J.D. from Creighton University School of Law (magna cum laude) in 2004. He is currently admitted and licensed to practice in the states of Missouri and Nebraska (inactive), as well as before numerous federal district and appellate courts.

Matt began his legal career at McGrath, North, Mullin & Kratz, PC LLO, a large regional law firm located in Omaha, Nebraska. Matt then spent approximately three years practicing at Shughart Thomson & Kilroy and Bryan Cave LLP, large national and international law firms in Kansas City, Missouri. In 2009, Matt left Bryan Cave LLP to join Miller Schirger, and was named a partner in the firm in 2013.

Throughout his career, Matt has represented clients ranging from individuals to Fortune 500 companies in various complex business and commercial matters, including class actions and other multi-party actions, in state and federal courts across the United States. Matt has significant experience representing plaintiffs in class action lawsuits brought in a number of state and federal courts throughout the United States.

Matt has been named a “Super Lawyer” by Missouri and Kansas Super Lawyers and was also named to the 2012 BTI Client Service All-Stars, a select group of only 272 lawyers nationwide chosen solely on unprompted, unequivocal recommendations by

1 corporate counsel for their understanding of business issues, innovative approaches to
2 legal services, and commitment to client needs.

3 **c. Joseph M. Feierabend**

4 Joe obtained his B.B.A. from the University of Notre Dame in 2005, with a major
5 in accounting, and his J.D. from the University of Missouri School of Law in 2008. He is
6 currently admitted and licensed to practice in the State of Missouri, as well as before the
7 United States District Courts for the Western District of Missouri, the District of
8 Colorado, and the District of Kansas.

9 In 2010, Joe joined Miller Schirger as an associate and was named a partner in the
10 firm in 2018. Joe focuses his practice in the areas of insurance, business, banking and
11 securities litigation, and his experience includes complex business and commercial
12 matters and disputes involving insurance coverage and bad faith claims. Joe has
13 significant experience representing plaintiffs in cost of insurance class actions brought in
14 state and federal courts throughout the United States. Joe has been selected as a “Rising
15 Star” by Missouri and Kansas Super Lawyers.

16 5. Miller Schirger, and specifically the attorneys identified above, have significant
17 experience handling class action cases directly involving insurance policies generally, and cost
18 of insurance overcharge class actions in particular. In 2016 Miller Schirger, along with co-
19 counsel Stueve Siegel Hanson LLP, secured a class action settlement on behalf of approximately
20 77,000 life insurance policy owners against The Lincoln National Life Insurance Company. The
21 settlement provided additional death benefits valued at approximately \$2.25 billion, with a
22 market value of approximately \$171.8 million. *See, Bezich v. The Lincoln Nat. Life Ins. Co.*, No.
23 02C01-0906-PL-73 (Allen Co, IN). The claims *Bezich* focused on cost of insurance overcharges

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1 in variable universal life insurance policies, similar to the claims pled in this case. In 2018 Miller
 2 Schirger and Stueve Siegel Hanson, with other co-counsel, also obtained certification of a
 3 nationwide class of life insurance policy owners asserting similar cost of insurance overcharge
 4 claims on life insurance policies in another jurisdiction and, thereafter, secured a \$59.75 million
 5 settlement on behalf of the class. *See, Larson v. John Hancock Life Ins. Co.*, Case No. RG16
 6 813803 (Superior Court of California, County of Alameda). In June 2018, the Miller Schirger
 7 attorneys responsible for rendering services in this case were on the team of attorneys that tried
 8 a class case on behalf of approximately 24,000 Missouri life insurance policy holders in the
 9 United States District Court for the Western District of Missouri, which resulted in a jury verdict
 10 of \$34.3 million on behalf of the class. *See Vogt v. State Farm Life Insurance Co.*, No. 2:16-cv-
 11 04170-NKL, (W.D. Mo.). The claims in *Vogt* focused on overcharges in universal life insurance
 12 policies, and the verdict was affirmed by the United States Court of Appeals for the Eighth
 13 Circuit. *See Vogt v. State Farm Life Insurance Co.*, 963 F.3d 753 (8th Cir. 2020). In April 2020,
 14 Miller Schirger and Stueve Siegel Hanson, with other co-counsel, obtained certification of a class
 15 of approximately 86,000 insurance policy owners asserting claims for overcharges in universal
 16 life insurance policies in *Bally v. State Farm Life Ins. Co.*, 2020 WL 1643681 (C.D. Cal. April
 17 2, 2018). And, in September 2020, Miller Schirger and Stueve Siegel Hanson, with other co-
 18 counsel, obtained certification of a nationwide class of approximately 85,000 life insurance
 19 policy owners asserting claims for cost of insurance overcharges on their policies in *Spegele v.*
 20 *USAA Life Ins. Co.*, No. 5:17-CV-967-OLD (W.D. Tex. Sept. 23, 2020). Miller Schirger, along
 21 with co-counsel, was appointed class counsel in each of the cases identified above.

22 6. Miller Schirger (together with Stueve Siegel Hanson) is also simultaneously
 23 prosecuting similar life insurance overcharge cases against the following insurance companies:

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1 Connecticut General Life Insurance Company; Lincoln National Life Insurance Company;
 2 USAA Life Insurance Company; State Farm Life Insurance Company; Kansas City Life
 3 Insurance Company; Symetra Life Insurance Company; and Genworth Life & Annuity Insurance
 4 Company.

5 7. Further examples of my firm's experience, along with brief resumes of the
 6 attorneys rendering services in this case, are included in the firm resume attached hereto as
 7 Exhibit 1. As demonstrated above, and by the representative cases in Miller Schirger's firm
 8 resume, I and my firm have a history of obtaining significant relief for class members. We are
 9 prepared to invest the resources necessary to fully and adequately litigate this case and advance
 10 the interests of the class through trial if necessary.

11 8. Miller Schirger also has sufficient financial and personnel resources to litigate this
 12 case to final judgment and is committed to utilizing all these resources to prosecute this case.
 13 Few of the firm's cases resolve quickly, and the firm is accustomed to cases that require multi-
 14 year financial and personnel investments. Although Miller Schirger is committed to efficient
 15 resolution of all cases, it is not unusual for the firm to invest thousands of hours in its cases in
 16 pursuit of a positive result for its clients.

17 9. Miller Schirger regularly handles cases in which millions of documents are
 18 exchanged and utilizes state of the art e-discovery applications to manage the document review
 19 process with efficiency. The firm has also established case and document management and
 20 review protocols, including dividing labor to avoid duplication of tasks and implementing
 21 uniform time-keeping standards.

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1 I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing
2 statements are true and correct.

3 Dated: February 16, 2021.

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John J. Schirger

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